IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Bail Appl..No. 4686 of 2007()

ST.274/2006 of J.M.F.C.-III,PALAKKAD

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: PETITIONERS/2ND AND 3RD ACCUSED:

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1. M.H. SALEEM, S/O. HANEEFA,
   NEAR HEAD POST OFFICE, KOPPAM, PALAKKAD.

2. FAISAL BABU, S/O. HANEEFA,
   MANGAVU, KALMANDAPAM, PALAKKAD.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P
SRI.M.N.SAJEER

RESPONDENTS: COMPLAINANT & NON-PARTY:

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1. EASWARDAS,
   MANAGING DIRECTOR, NEELIMA COIMBATORE FINANCE,
   PALAKKAD.

2. STATE OF KERALA,
   REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO.4686 OF 2007

Dated this the 27th day of July, 2007

ORDER

The petitioners face indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. According to the petitioners, they have not received any notice of summons from the court. Reckoning the petitioners as absconding, coercive processes have been issued against the petitioners. The petitioners find such processes chasing them now. According to the petitioners, they are absolutely innocent. Their absence earlier was not wilful. They are willing to surrender before the learned Magistrate and co-operate with the court for the expeditious disposal of the case against them. The petitioners apprehend that their applications for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioners have come to this Court for a direction to the

learned Magistrate to release them on bail when they appear before the learned Magistrate.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' applications for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. To Judge